

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-against-

MAX NIEVES,

Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 2/22/2021

No. 19-CR-402 (NSR)

ORDER

NELSON S. ROMÁN, United States District Judge:

A review of the docket reveals that on June 3, 2019, Defendant Max Nieves was charged in a one count Felony Indictment with violating 18 U.S.C. §§ 922(x)(1)(A) and 924 (a)(6)(B)(ii). On June 24, 2019, Defendant was arraigned before Magistrate Judge Judith C. McCarthy, waived a public reading of the Indictment, and pled not-guilty. Subsequently, on January 31, 2020, Defendant pled guilty before the Court to the sole count in the Indictment in accordance with a non-binding written plea agreement dated January 29, 2020 and has been detained without bail since his arrest on May 15, 2019. The Defendant is currently scheduled to be sentenced on February 23, 2021.

In light of the ongoing Coronavirus Disease 2019 (“COVID-19”) pandemic, Defendant’s desire to be sentenced approximately one-year after he pled guilty, and in order to comply with social distancing protocols and the directives provided by the Chief Judge of the United States District Court for the Southern District of New York to limit in-person court appearances due to the risk presented by COVID-19, it is the Court’s determination that in order to prevent serious harm to the interest of justice, Defendant Max Nieves can and should be permitted to be sentenced by video teleconference or by telephone conference pursuant to the CARES Act § 15002(b)(2)(A).

Accordingly, it is hereby ORDERED that the Defendant’s sentencing hearing scheduled for February 23, 2021 is to be conducted by video teleconference or by telephone conference (if video conference is unavailable) before this Court. The Clerk of the Court is directed to terminate the

motion at ECF No. 41.

In preparation for and while engaging in the video teleconference or telephone conference, please follow these guidelines:

1. Use a landline whenever possible.
2. Use a headset rather than speakerphone.
3. Identify yourself each time you speak.
4. Be mindful that, unlike in a courtroom setting, interrupting can render both speakers unintelligible.
5. **Mute** when not speaking to eliminate background noise, *i.e.*, dog barking, kids playing, sirens, paper shuffling, emails pinging, drinking, and breathing. It all comes through. This will also prevent interruptions.
6. Avoid voice-activated systems that don't allow the speaker to know when someone else is trying to speak and they cut off the beginning of words.
7. Spell proper names.
8. Have judge, or courtroom deputy, confirm reporter in on the line.
9. If someone hears beeps or musical chimes, that means someone has either entered or exited the conference. Please be aware that the judge may need to clarify that the report has not lost the line. (This has happened before, and the reporter had to dial back in and tell the judge the last thing that the court reporter transcribed.)

Dated: February 22, 2021
White Plains, New York

SO ORDERED:



NELSON S. ROMÁN
United States District Judge